
Appendix VIII

Guideline Considerations-State Water Quality Certification

GUIDELINE CONSIDERATIONS--STATE WATER QUALITY CERTIFICATION

GENERAL: Section 401 of the federal Clean Water Act (CWA) requires states to determine if a proposed activity requiring a CWA Section 404 permit will violate water quality standards. The Texas Natural Resources Conservation Commission (TNRCC) makes this determination for all projects except those related to the exploration, development and production of crude oil/natural gas, which the Railroad Commission of Texas reviews.

Either an applicant or the Corps may request the water quality certification. To facilitate review, an applicant will file a complete application with the appropriate Corps District. The Corps and the TNRCC utilize a single Joint Public Notice procedure to inform potentially affected persons and other governmental entities of the scope of work requiring the Section 404 permit and of the evaluation by the TNRCC for the purpose of providing the water quality certification. The notice also initiates a 30-day comment period applicable to the TNRCC activities. A potentially affected person may submit comments for consideration or request that the TNRCC conduct a public hearing on the Section 401 certification process as it relates to the potential for water quality standards to be violated. During the TNRCC evaluation, an applicant, a person submitting comments or requesting a hearing, or other resource agencies may be requested to provide additional information to aid in the certification process. The TNRCC will provide the Corps, the applicant and other interested persons with a copy of its determination following the comment period and/or public hearing.

INFORMATION TO INCLUDE IN CORPS OF ENGINEER APPLICATION

The TNRCC review of the application is generally limited to the primary impact the project might have on water quality standards, but secondary impacts of a completed project may also be considered. With this in mind, the applicant should include in the application a complete discussion, where applicable, of how the following items will be addressed during construction or upon completion of the work for which the Section 404 permit is required:

- 1) Will wetlands be disturbed, altered or destroyed by the proposed activity? If yes and avoidance can not be achieved, discuss alternatives considered and planned to minimize impact(s). Additionally, in order to facilitate a determination on providing a water quality certification, the Texas Natural Resources Conservation Commission has requested an applicant to provide it with additional information as identified in comment 3, page 3.

(REQUIREMENTS CONTINUED ON REVERSE SIDE)

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- 2) The discharge of oil, gasoline, fuels or other materials capable of causing pollution is prohibited. If the nature of the proposed work presents conditions under which a spill could occur, what provisions have been made for the recovery of petroleum products, including the proper disposal of contaminated soils?
- 3) What provisions, where applicable, have been made for the legal disposal of materials recovered from the removal or destruction of existing structures?
- 4) Where it is necessary to provide sewage facilities during construction, such facilities must comply with applicable local and/or state requirements and a discussion of how these requirements will be satisfied must be provided.
- 5) Describe methods incorporated into the projects plan which will minimize short and long term turbidity and suspended solids in the waters being dredged or filled.
- 6) Describe measures that will be used to stabilize disturbed soil areas, including, but not limited to, dredged material mounds, new levees or berms, building sites, and construction work areas. The description should address both short-term (construction related) and long-term (normal operation or maintenance) measures. Typical measures might include containment structures, drainage modifications, sediment fences or revegetation. Special construction techniques intended to minimize soil or sediment disruption should also be described.
- 7) Discuss provisions for the placement of hydraulically dredged materials in a facility (levee/dike, etc.) which will insure a minimum of one-hour of settling before waters overflow a controlled weir and return to the area being dredged. Plans submitted should include a calculation of minimum settling times with supporting data. If maintenance dredging will be required, the disposal site should be designed to accommodate additional dredged materials or provisions made for the periodic removal of the dried sediments for appropriate beneficial use/disposal.
- 8) Discuss any investigation(s) and evaluation(s) of sediments within the area(s) to be dredged to determine the presence of contaminants, especially where the dredging activity is in an area known or likely to be contaminated, such as downstream of a municipal or industrial discharge.

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ADDITIONAL COMMENTS

1) Marinas should include in their overall design provisions for the collection and disposal of sewage from marine sanitation devices, when berthing of such vessels may occur. Discuss provisions for the disposal of sewage from marine sanitation devices, if applicable, and for the disposal of sewage generated in normal day to day activities.

2) If the area being developed will result in either a residential or industrial development, the applicant is placed on notice that local, state and federal permits or authorizations may be required for the treatment and disposal of wastewater, process waters, air emissions, and municipal and solid/hazardous waste disposal. THE CORPS APPLICATION FOR A SECTION 404 PERMIT SHOULD IDENTIFY ALL ACTIVITIES FOR WHICH OTHER PERMITS/AUTHORIZATIONS ARE REQUIRED AND DISCUSS PLANS FOR OBTAINING THE PERMITS/AUTHORIZATIONS OR FOR OBTAINING SERVICES FROM ANOTHER PERMITTED/LICENSED FACILITY.

3. The Texas Natural Resources Conservation Commission requests the submission of photographs showing wetland areas which will be disturbed/lost from the proposed activities. Additionally, a U.S.G.S. Topographic map should be submitted with the photos keyed to the location at which point the photo was taken and show on the map the area covered by each photo. The photos and map should be sent to:

Texas Natural Resources Conservation Commission (TNRCC)
Attn: Environmental Assessment Division
P.O. Box 13087
Austin, Texas 78711-3087